**THE HON'BLE SRI JUSTICE N.V. RAMANA**

**W.P. Nos. 3272, 3279 and 8583 of 2001**

**Common order**:

Heard the learned counsel for the petitioners and the learned Standing Counsel for the Indian Oil Corporation Limited.

These three writ petitions by the unsuccessful candidates question the proceedings dated 09.02.2001 of the Dealer Section Board, Indian Oil Corporation Limited, selecting one Sri. P. Suresh as LPG Distributor of Indian Oil Corporation Limited, for the location at Sathupalli, Khammam District, in pursuance of the Notification dated 16.07.2000, as illegal and arbitrary.

The petitioner in W.P. No. 3272 of 2001 (hereinafter referred to as 'the first petitioner) is a graduate in Engineering B.Tech. (Mechanical). He is working in Call Gas Company, Tenali, Guntur. The petitioner in W.P. No.3279 of 2001 (hereinafter referred to as 'the second petitioner) passed Intermediate, but failed B.A. He has landed property in Kothuru village, which is adjacent to Sathupalli. The petitioner in W.P. No. 8583 of 2001 (hereinafter referred to as 'the third petitioner) is graduate in B.Com., and also appeared for MBA examination. The petitioners belong to Scheduled Caste and belong Mamillagudem, Sathupalli and Indiranagar villages in Khammam District. In response to the Notification dated 16.07.2000, issued by the Indian Oil Corporation Limited, the petitioners applied for LPG Distributor location at Sathupalli, Khammam District, which is reserved for Scheduled Caste candidates. The petitioners appeared for interview before the Dealer Selection Board on 09.02.2001. On that day, the Dealer Selection Board, by reason of the order impugned in the writ petitions, selected one Sri. P. Suresh (hereinafter referred to as 'the selectee') as LPG Distributor for the location at Sathupalli.

*Sri. M. Janardhana Rao*, the learned counsel appearing for the first petitioner submitted that the petitioner is better qualified than the selectee. The petitioner is having degree in Engineering B.Tech. (Mechanical), which is more suitable for running an LPG Distributorship, and as such, he stand a better chance to be selected, but the Dealer Selection Board, for the reasons best known to them, had selected the selectee, who is not as qualified as the petitioner.

*Sri. Badana Bhaskara Rao*, the learned counsel appearing for the second petitioner submitted that the petitioner failed B.A., and as per the requirements of the notification, though the petitioner possesses landed property at a prime location, which is suitable for housing LPG Distributorship, for the reasons best known to them, the Dealer Selection Board has selected the selectee, who is not having any landed property.

*Sri. D. Srinivas*, the learned counsel appearing for the third petitioner submitted that the petitioner after passing B.Com., appeared MBA examination, and though he is better qualified and as an edge over others, the Dealer Selection Board has selected the selectee.

All the counsel submitted that the procedure adopted by the Dealer Selection Board in selecting LPG Distributorship lacks transparency. In that, there is neither rationality nor any basis in the awarding of marks for each of the many criteria adopted for the selection. The Dealer Selection Board has not selected a candidate who is having better qualification, rich experience in the field, and landed property, which are essential for managing/setting up of LPG Distributorship, but selected a candidate, who is not much qualified, possessing no experience and no landed property, and not a local candidate of Khammam District. They submitted that the petitioners stand equal to the selectee in the criteria fixed for selection.

They submitted petitioners, who are residing in Khammam District, are local candidates to the location at Sathupalli, and though as per the notification, residents of Khammam, East Godavari, West Godavari, Krishna, Guntur, Nalgonda and Warangal Revene Divisions, alone are eligible to apply for the location at Sathupalli, and as the petitioners stand equal to the selectee on the other criteria, as per the notification, the petitioners, who are residents of Khammam Revenue Division, where the LPG Distributorship is to be locate, should have been given preference by the Dealer Selection Board, in the matter of selection, rather than selecting the selectee, who is not a resident of Khammam Revenue Division, but is a resident of Krishna Revenue Division. They thus prayed that the impugned selection be set aside and the writ petitions be allowed.

The Area Manager of the Indian Oil Corporation and the Chairman of the Dealer Selection Board, filed two separate counters in all the three writ petitions. They record relating to the selection is also produced.

The learned Standing Counsel for the Indian Oil Corporation on the basis of the counters and the record, submitted that the Indian Oil Corporation is not involved in the selection process, and therefore, no *mala fides* can be alleged against it. The Dealer Selection Board, which is the apex body, headed by a retired District Judge has made the selection in accordance with the Rules and the notification. The petitioners cannot evaluate or judge their own merit and contend that they possess superior qualifications than those who are selected. Awarding of marks to the candidates, is the job of the Dealer Selection Board, and this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot award marks or substitute the marks awarded by the Dealer Selection Board to the candidates, and say that this or that person, is more qualified and more meritorious than the one who has been selected. In support of this submission, he placed reliance on the judgment of a learned single Judge of this Court in **Y. Chandraiah v. Union of India and Others**. He thus prayed that the writ petitions lack merit, and they be dismissed.

On behalf of the selectee, counter in filed in W.P. No. 8583 of 2001 denying the averments made therein.

The law is well settled that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, would not proceed to assess the relative merit of the individuals and would not substitute the view of the Selection Committee or Selection Board, who are supposed to be experts in assessing the relative merit of the individuals on the basis of criteria fixed for the selection.

Be that as it may, to know as to how and what marks are awarded by the Dealer Selection Board to each of the candidates, who attended the interview for selection to the LPG Distributorship of the Indian Oil Corporation Limited at Satupalli, Khammam District, the performance statement of the empanelled candidates, prepared by the Dealer Selection Board, may be reproduced, for better appreciation of the matter:

**STATEMENT OF PERFORMANCE OF THE EMPANELLED CANDIDATES PREPARED BY THE DEALER SELECTION BOARD**

| Sl. NO. | Name of theCandidate | Personality, Business ability and salesmanship | | | Cap-ability to arrange finance | Educational qualification and general level of intelligence | | | Cap-ability to provide infra-structure and facility | General Assess-ment | | | Total Marks | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Ch. (Max. 40) (M(Max.) 40)) | Mem.I (Max. 20) | Mem.II (Max. 20) | Not Applicable | Ch. (Max. 40) | Mem.I (Max. 20) | Mem.II (Max. 20) | Not Applicable | Ch. (Max. 40) | Mem.I (Max. 20) | Mem.II (Max. 20) | Ch. Max. 100) | Mem.I (Max.50) | Mem.II (Max.50) |
| 1. | Selectee | 35 | 15 | 5 | --- | 35 | 13 | 4 | --- | 15 | 4 | 3 | 85 | 32 | 12 |
| 2. | Third Petitioner | 20 | 15 | 10 | --- | 15 | 13 | 14 | --- | 8 | 3 | 6 | 43 | 31 | 30 |
| 3. | First petitioner in | 10 | 15 | 12 | --- | 8 | 12 | 13 | --- | 5 | 3 | 6 | 23 | 30 | 31 |
| 4. | Second petitioner | 5 | 13 | 12 | --- | 5 | 12 | 12 | --- | 5 | 2 | 7 | 15 | 27 | 31 |

As per the notification, the LPG Distributor location at Sathupalli in Khammam District is reserved for Scheduled Caste candidate, and there is no dispute about the fact that both the petitioners as well as the selectee belong to Scheduled Caste. The selectee is a B.Com graduate, while the third petitioner is B.A. fail. Obviously, the qualification of the third petitioner, is not higher than the selectee. The first and second petitioners are having higher qualifications than the selectee, namely B. Tech. (Mechanical) and B.Com (MBA). The selectee is having experience of supervising labour in a Tiles factory, he also has experience as Sales Supervisor and Cashier in Prabha Service Station, Mylavaram, while the first petitioner is having experience of running a Internet Centre. The second and third petitioners have not furnished any details of their experience.

Though the first and second petitioners, who are having higher qualifications than the selectee, stand a chance of being selected, but it is the case of the Indian Oil Corporation that the Dealer Selection Board, which made the selection, had made the selection by assessing the relative merit of the candidates, who appeared for the interview, not merely based on educational qualifications of the individuals, but also based on several other criteria, like their personality, business ability and

salesmanship, general level of intelligence and general assessment. The criteria on which the Dealer Selection Board, has made the selection, is evident from the statement of performance of the empanelled candidates prepared by the Dealer Selection Board, as extracted supra. In the assessment so made, the Dealer Selection Board has awarded highest marks to the selectee, followed by the third petitioner, first petitioner and the third petitioner. Since the Dealer Selection Board has made the selection based on several other criteria, and not merely based on educational qualifications of the individuals, no interference is called for with the impugned selection, more so when this Court can neither award marks nor substitute the marks awarded to the individuals by the Dealer Selection Board. In **Y. Chandraiah v. Union of India and Others**, on which the learned Standing Counsel for the Indian Oil Corporation placed heavy reliance, a learned Judge of this Court while considering similar contention held that the view of the Selection Board in awarding the marks to the candidates cannot be gone into by the Court and they cannot be substituted by the view of the Court. In that view of the matter, this Court can neither award marks nor substitute the marks awarded by the Dealer Selection Board to the candidates who appeared before it for selection.

It is the contention of the petitioners that the Dealer Selection Board could not have selected the selectee, who is not a resident of Khammam District. I am unable to agree with this contention of the petitioners for the reason that as per the notification, for the LPG Distributor location at Sathupalli in Khammam District, residents of Khammam, East Godavari, West Godavari, Krishna, Guntur, Nalgonda and Warangal Revenue Divisions, alone are eligible to apply, and in the event the other things being equal, preference will be given to those who are resident of Khammam Revenue Division. It should be seen whether the petitioners, who are residents of Khammam Revenue Division stand equal in all respects when compared with the residents of other Revenue Divisions. From the performance statement prepared by the Dealer Selection Board, as extracted supra, it is clear that the educational qualifications, personality, business ability and salesmanship, general level of intelligence and general assessment of the selectee and the petitioners, is not equal when compared with the selectee. The selectee was awarded highest marks, followed by the third petitioner, first petitioner and the second petitioner. Admittedly, the selectee, who is a resident of Krishna Revenue Division and the petitioners, who are residents of Khammam Revenue Division, as per the notification, are entitled to apply for the LPG Distributorship location in Sattupalli at Khammam District. On a comparative assessment of the merit, as made by the Dealer Selection Board, it is clear that the selectee and the petitioners, are not equal in any of the criteria adopted by the Dealer Selection Board, for selection. When the petitioners were found to be not equal by the Dealer Selection Board in the criteria adopted for selection, the contention of the petitioners that the Dealer Selection Board could not have selected the selectee, who is not a resident of Khammam Revenue Division, cannot be countenanced. The petitioners can seek preference in the matter of selection only if they were equal in other things when compared to the selectee, but that is not the case on hand. In that view of the matter, no exception can be taken to the action of the Dealer Selection Board in not giving preference to the petitioners, who are residents of Khammam Revenue Division, in

the matter of selection to LPG Dealership at Satupalli, and selecting the selectee, who is a resident of Krishna Revenue Division, and more so when as per the notification, the selectee is entitled to apply.

Though the petitioner in the second writ petition contended that he is having landed property at a prime location and he stands a good chance to be selected, it is the case of the Indian Oil Corporation there is no necessity for a scheduled caste candidate to have landed property, and possessing of landed property is not at a relevant criteria for award of marks, for as Guideline 2 Point No. 2.8.4 of the Notification, financial assistance is to be made available by the concerned Oil Corporation to Scheduled Castes and Scheduled Tribe category of Dealerships/Distributorships under the Corpus Fund Scheme, and since the concerned Oil Corporation is making available necessary financial assistance, the Dealer Selection Board, has not awarded any marks. Therefore, this contention of the petitioner in the second writ petition is devoid of merit.

For the foregoing reasons, there is no merit in the writ petitions, and they are accordingly dismissed. No costs.

_____

**N.V. RAMANA, J.**

**Date: 5th January, 2006.**

**KSR**